

REMARKS

In the Final Office Action mailed January 9, 2009, claims 1-29, 31-40, 42-49 and 55-59 were pending and stand finally rejected. Claims 1, 16 and 26 are amended in this response, and claims 6, 15, 19, 25, 29-30, 35-55 and 59 are cancelled. In view of the following remarks, reconsideration and allowance of the present application including claims 1-5, 7-14, 16-18, 20-24, 26-28, 31-34 and 56-58 are hereby requested.

Claims 1-25, 35, 45, 49, 56 and 57 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. Specifically, a portion of claim 1 was considered vague and indefinite because "said pre-bent configuration" lacks antecedent basis. Claim 1 is amended as suggested in the Office Action and therefore the rejection under 35 USC 112, second paragraph is believed moot. Withdrawal of this basis of the rejection of claim 1 is respectfully requested.

Dependent claims 15, 25, 35, 45 and 49 were also rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. Specifically, the Office Action indicates that if these claims were amended to recite the inner surface of the tube defining the working channel rather than "said inner surface of said retractor extending completely around said tube to define said working channel", then the rejections would be addressed.

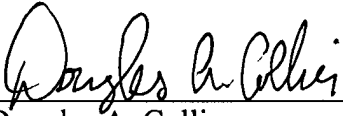
It was further indicated that if claims 15, 25 and 35 were amended to address this rejection, then these claims would be allowable if rewritten in independent form. Claims 1, 16 and 26 are amended above to incorporate claims 15, 25 and 35, respectively, with the subject matter of claims 15, 25, 35 amended in the manner suggested in the Office Action to address the rejections under 35 USC 112, second paragraph. Claims 15, 25 and 35 are cancelled in addition to previously cancelled claims 6, 19 and 29-30.

Claims 36-55 and 59 have been cancelled in this response. No acquiescence in the rejection of these claims is respectfully requested. The amendments to the claims in this application have been made in order to expedite allowance of the present application and issuance of a patent. Applicant's reserve the right to pursue the cancelled claims in a continuing application.

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance with pending claims 1-5, 7-14, 16-18, 20-24, 26-28, 31-34, and 59. Reconsideration of the present application as amended is respectfully requested. Timely action towards a Notice of Allowance is hereby solicited. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters concerning the present application.

Respectfully submitted:

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